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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1306

HUMBLE OIL & REFINING COMPANY, *Petitioner*,

v.

EIGHTH REGIONAL WAR LABOR BOARD, ET AL., *Respondents*

PETITION FOR WRIT OF CERTIORARI AND BRIEF IN SUPPORT THEREOF

REX G. BAKER,
NETH LEACHMAN,
J. Q. WEATHERLY,
JOHN H. CROOKER,
Counsel for Petitioner

ALPHA LAW BRIEF CO., HOUSTON

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IN THE

SUPREME COURT OF THE UNITED STATES

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HUMBLE OIL & REFINING COMPANY, *Petitioner*,

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To the Solicitor General of the United States, Washington, D. C., Francis M. Shea, Assistant Attorney General; Arnold Levy, Special Assistant to the Attorney General; Harry I. Rand, Attorney, Department of Justice; Clyde O. Eastus, United States Attorney; Frank B. Potter, Assistant United States Attorney, *Counsel for Respondents:*

You are hereby notified that a petition for writ of certiorari in the above entitled cause was filed in the Supreme Court of the United States on the_____day of May, 1945.

A printed copy of the record and a printed copy of the petition and brief are served upon you herewith.

REX G. BAKER,
NETH LEACHMAN,
J. Q. WEATHERLY,
JOHN H. CROOKER,
Counsel for Petitioner

Service accepted this_____ day of May, 1945:

_____

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_____

Counsel for Respondents

IN THE

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OCTOBER TERM, 1944

No._____

HUMBLE OIL & REFINING COMPANY, *Petitioner*,

v.

EIGHTH REGIONAL WAR LABOR BOARD, ET AL., *Respondents*

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The petition of Humble Oil & Refining Company, a Texas corporation, for a writ of certiorari to review the decree of

the United States Circuit Court of Appeals for the Fifth Circuit entered in the above case on March 1, 1945, which decree reverses an order of the District Court for the Northern District of Texas, dated September 21, 1944, granting a preliminary injunction, respectfully shows:

JURISDICTION

The jurisdiction of this Court is invoked under Section 240(a) of the JUDICIAL CODE as amended by the Act of February 13, 1925, Ch. 229, Sec. 1, 43 Stat. 938 (U.S.C.A., Title 28, Sec. 347(a)).

The date of the decree in the trial court was September 21, 1944 (R. 359). The opinion of the trial court appears in the Record at pages 361-375. Appeal was duly perfected and the decree of the Circuit Court of Appeals was entered March 1, 1945. The decree and opinion of the Circuit Court are included in the transcript of the proceedings in this case furnished and certified by the Clerk of the Fifth Circuit Court. This petition was duly filed in this Court within three months after March 1, 1945.

PRELIMINARY STATEMENT

The controlling issue in this case is: Whether a court of equity in Texas has power to restrain a wanton trespass upon and illegal seizure of property in Texas by a group of co-conspirators, part of whom live in Texas and are actively co-operating in the common design, and the other part of whom live outside Texas and are also actively co-operating in the same common design. The District Court answered the question in the affirmative and granted preliminary restraint—while the Circuit Court answered in the negative and dissolved the restraint. With this approach, we come to a

STATEMENT OF THE CASE

This is primarily *a conspiracy suit* filed by petitioner, Humble Oil & Refining Company in the Northern District of Texas. One group of defendants consisted of the Eighth Regional War Labor Board and its members, each and all of whom are residents of the Northern District of Texas. The other group of defendants consisted of the National War Labor Board and its members, Fred M. Vinson, Economic Stabilization Director, the Petroleum Administration for War, Harold L. Ickes, Administrator of the Petroleum Administration for War, Ralph K. Davies, Deputy Administrator of the Petroleum Administration for War, and George E. Dewey, agent and representative of the Petroleum Administration for War.

The Eighth Regional War Labor Board and its members will sometimes be referred to as the "Texas defendants." The remaining defendants are each and all residents of Washington, D. C., and will sometimes be referred to as the "Washington defendants."

This petition for certiorari seeks to have this Court review the action of the Circuit Court of Appeals for the Fifth Circuit in reversing an order of the District Court granting petitioner a preliminary injunction.

No fairer or more accurate statement of the case can be made than that of the trial judge by whom the case was heard. We, therefore, use excerpts from the District Court opinion as a proper and impartial statement. After stating that "sufficient jurisdictional facts are alleged," the District Court opinion continues with a statement of the case as follows:

> "The petition shows that the plaintiff has approximately thirteen thousand employees engaged in various phases of the oil business, such as production, trans-

portation, storage, refining, etc. That it has a refinery at Baytown, Texas, and one at Ingleside, Texas; in the latter of which it has four hundred and fifty employees, and is processing thirty-one thousand barrels of crude daily, and is furnishing a large part of its output for the war effort and under war contracts. That it has in its business nineteen different labor contracts and with no serious labor disputes at any point or place. That the relation between itself and its employees is happy and pleasant.

"That the labor bargaining agent with it at Ingleside was the C.I.O. * * * That the 1944 contract was signed, but that the C.I.O. retained the right to present its contention that there should be added to it a maintenance of membership clause * * * . This clause the plaintiff refused to put in the contract. It claimed that such a clause would bring about unhappy relations between it and its employees. Thereupon, the C.I.O. appealed to the Tri-Partite panel at Dallas, which panel approved the plaintiff's position. The matter was then presented to the Eighth Regional War Labor Board, which also approved and denied the right to demand the maintenance clause. That the C.I.O. then went to the National War Labor Board at Washington, presenting to it only such matters as had been presented to the Eighth Regional War Labor Board. Plaintiff notified the National War Labor Board that it assumed that it would be given a right to be heard. Such hearing was denied it, and on April 1st, 1944, the action of the panel and of the Eighth Regional War Labor Board was overruled and the insertion of the membership clause was ordered. This order was not made known to it until April 24th, 1944.

"Plaintiff alleges that there are a number of its employees at Ingleside who have belonged to the union, but are delinquent in the payment of their dues, and do not intend to pay dues, and that there are a number of employees who for other reasons desire to discontinue their Union membership, and the plaintiff fears that if a maintenance of Union membership clause is required to

be inserted in said contract it will be requested and required to discharge such employees, or that such employees will quit their work if such maintenance of membership enforcement is required. That replacements are not available, and such discharges would impair the efficiency and economic operation of the refinery and affect its production and other operations throughout the State of Texas, and thereby impair its war effort and efficiency."

After outlining the genesis of the scheme for a program of sanctions and penalties to be imposed upon employers who might not comply with a fiat of the National War Labor Board—*none of which was authorized or countenanced by any Act of Congress*—the opinion of the trial court continues its statement of the case:

"That in furtherance of such program against the plaintiff, the defendants, National War Labor Board and Regional Board, have refused to pass upon or process wage and salary rate applications made by the plaintiff. That such processing is equitably and reasonably required, in order to increase payments to certain of the plaintiff's employees, and that such refusal results in serious injury to the industrial relations between the company and its employees and interferes with the production of vital war material. 'That the National War Labor Board and the Eighth Regional War Labor Board have sought and are seeking by underhanded and secretive ways and means to coerce and compel plaintiff to comply with said order of April 1, 1944.'

" 'That the majority of the members of the National War Labor Board are acting together and in concert to compel and coerce the plaintiff to put into effect its illegal, wrongful, and injurious order and to impose upon plaintiff sanctions and penalties and other injustices shown * * * .' That it has actually begun the imposi-

tion of such penalties at its Baytown refinery and has threatened the same action and a seizure at Ingleside.

"That the defendant Vinson, Director, as aforesaid, through reports and notices, secured the co-operation of defendants Ickes, Davies, and Dewey, and induced them to join them and other defendants in the conspiracy as herein alleged against the plaintiff and, to also include in the object of the conspiracy, 'the unlawful taking over, by force, the plaintiff's entire plant, facilities and operations at Ingleside.' That it has no remedy for the securing of damages in the event such wrongful act or acts are permitted.

"It seeks a declaratory judgment with reference to the alleged illegality of the actions of the National War Labor Board, of the President's Order No. 9370, and of the President's letter to defendant Davis in connection with said order, as well as restraints, temporary and permanent.

"Notices were issued requiring the defendants to show cause at an early date why a temporary injunction should not issue, and temporary restraint was put into force, upon the giving of a $10,000.00 bond by the plaintiff until that date. Before that date the defendants asked for a postponement until Wednesday, September 20, and, it being agreeable to the plaintiff, an order was entered to that effect, and continuing the restraint.

"All parties being today present, the defendants presented two motions; one to dismiss for want of jurisdiction over non-resident defendants, and the other for a summary judgment. *There is and was no answer on the merits.**

"The parties agreed in open court to submit testimony by affidavits. The affidavits of the defendants are to the effect that they have no power to seize, or order a seizure of the plaintiff's property. That the sanctions which had been ordered, because of the plaintiff's failure

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* Italics throughout this petition and brief are ours unless otherwise stated.

to agree to a maintenance of membership clause in the contract, were without authority and had been withdrawn on the day after the suit was filed.

"The affidavits of the plaintiff support the allegations of its petition and show that the nonresident plaintiffs assisted and were concerned in the representations and threats made to the plaintiff as to the imminent seizure of its property." R. 361-369.)

After a full hearing and argument, the trial court found that the allegations in petitioner's bill in regard to threatened and actual imposition of illegal and unlawful sanctions and penalties upon the petitioner, and in regard to the threatened and impending forceful seizure of the petitioner's Ingleside Refinery—*all part of a conspiracy between all of the defendants to compel and coerce the petitioner into compliance with the Board's order*—were supported by ample evidence introduced at the show-cause hearing (R. 351-352).

The trial court further found that defendants, Eighth Regional War Labor Board and National War Labor Board,

> "*acted in concert* and illegally refused to consider or pass upon plaintiff's applications for wage adjustments containing requests for increases in wages for certain of its employees and have otherwise sought and may continue to apply sanctions against plaintiff because of its refusal to obey the National War Labor Board's directive order of April 1, 1944 (R. 351),

and that *all of the defendants,*

> "*acting in concert*, have conspired to enforce said directive order of the National War Labor Board, and for that purpose have applied sanctions against plaintiff and have expressed an intent to seize and have threatened to seize possession of and to take over and operate plaintiff's Ingleside Refinery near Corpus Christi, Texas,

> *there being in fact no interruption in the operation of said plant because of a strike or labor disturbance or for any other reason.* The plant is and has been operating to capacity in producing 91 octane aviation gasoline and other war products, and that there is no threat of such interruption for any cause whatsoever; that the National War Labor Board has not revoked or rescinded its directive order of April 1, 1944" (R. 352).

and that none of the defendants had given any assurance in open court or otherwise that they would not again apply additional sanctions or that they would not seize or interfere with petitioner's Ingleside plant because of its failure to obey the Board's order; and that the desire of defendants to enforce the Board's order *are the motives* prompting defendants to do the various acts about which petitioner complained in its bill (R. 352).

The trial court further found that it had jurisdiction over the subject matter of the action; that it had jurisdiction over a part of the defendants; and that

> "no harm could result to any of the defendants from being restrained and enjoined from taking action which they admit they have no lawful right to take, but great harm and irreparable injury and damage will be suffered by plaintiff, and in balancing the equities and convenience of the parties, the ends of justice will be served by not dismissing the action as to them at this time,"

and by entering the decree (R. 353).

The trial court further found that the evidence introduced by petitioner on the hearing amply showed that the *nonresident defendants assisted and were concerned* in the representations and threats made to petitioner as to the imminent seizure of its property (R. 369); and the trial court specifically found that

"unlawful and illegal sanctions were imposed. Such sanctions were being carried out. Threats were made to seize the plaintiff's property at Ingleside. *Those who claim a refuge in Washington, in certain marked instances, communicated with the agents, or, with the plaintiff in Texas, and with agents in this district. They, likewise, came into Texas.* They declined to talk of the merits of the order with reference to sanctions that had been imposed. They *demanded immediate compliance* by the insertion of a membership clause in the labor contract. They *announced that the seizure would take place* by the 8th of September. When the plaintiff *asked for a postponement* until September 11th, *that request was refused.* Those who made those threats *were in authority.* They *were in positions of power.* They were advisors of the President. They were recipients of previous instructions from the President. Those messengers and agents who came from Washington declared that they desired to *ascertain the disposition* of the plaintiff with reference to the continuation of the operation of the plant after its seizure" (R. 371).

The trial court denied, without prejudice, the defendants' motion for summary judgment, as well as their motion to dismiss the Texas defendants. On the motion to dismiss the Washington defendants, the court deferred its ruling "until a hearing on the merits or at some time prior thereto, under the rules (R. 353-354). The trial court granted the preliminary injunction prayed for in petitioner's bill (R. 354-358).

Defendants filed their application with the District Court for a stay of the preliminary injunction pending appeal therefrom, which was denied by the court (R. 359-361).

PROCEEDING AND OPINION IN CIRCUIT COURT OF APPEALS

In the Circuit Court of Appeals, defendants contended that the trial court abused its discretion in issuing the preliminary injunction; that petitioner's main complaint was with the Washington defendants who were not within the jurisdiction of the Texas Court; and that petitioner's complaint against the Texas defendants had become moot by reason of the National Board's having ordered the Regional Board (*after petitioner's bill was filed and the temporary restraining order granted*) to begin passing upon petitioner's Form 10 applications.

Petitioner answered defendants' contentions:

> (1) that its suit was against *all of the defendants as a group* who were illegally *acting together* to coerce petitioner into a contract which none of them had any *legal right* to compel petitioner to execute;
>
> (2) that petitioner's suit could not be viewed as *two separate complaints*—one against the Texas defendants for merely refusing to pass upon certain applications, and the other against the Washington defendants for threatening to take possession of petitioner's refinery—because petitioner's bill plainly alleged and the *undisputed facts* clearly showed that *all of the defendants* had formulated the program of coercion and that all of them were *acting together* pursuant to their *common design*—each part of the *group* doing all that its members could to *force* petitioner to do that which no one had any *legal right to* compel;
>
> (3) that the Texas defendants were properly before the court—each and all of them being residents of the Northern District of Texas and acting and performing some of their unlawful acts within the Northern District of Texas and each of them having been properly served within the territorial limits of the State of Texas;

(4) that the petitioner's bill set forth *and all the evidence showed* that the Texas defendants were actively doing everything they could in furtherance of the conspiracy—partly as *principal actors* and partly as *agents, officers and representatives* of the Washington defendants in aiding and assisting the latter in their threats to seize petitioner's plant; and

(5) that defendants *admitted* that they had already *performed illegal acts* against petitioner; that they had threatened to perform further illegal acts against petitioner; and they did not promise—or even suggest—that they would discontinue their program of coercing petitioner, but instead defendants asserted in open court that they *"might or might not seize petitioner's property."*

We must have failed to make these matters understood by the Circuit Court of Appeals, for its opinion states that:

"The gravamen of the complaint was that * * * the Texas defendants had improperly refused to process Form 10 applications filed by appellee, and the Washington defendants were threatening to take possession of appellee's refinery."

In our efforts to make our position plain to the Circuit Court of Appeals, we stressed the view that the Washington defendants were not indispensable parties and that in no event should the injunction be dissolved as against *all* of the defendants, since *each and all of them* were parties to the common scheme and program and were at once *principal and agent of each other;* that although the Washington defendants could not technically be subjected to the jurisdiction of the trial court as "parties", still they were subject to the binding force and effect of the injunction under Section 383 of Title 28, U. S. CODE, and Rule 65 (b) of the RULES OF CIVIL PROCEDURE because they were "in active concert and participation" with the Texas defendants in the conspiracy, and had

actual notice of the issuance of the injunction; and that since the trial court merely restrained the Washington defendants "to whatever extent * * * (it) may have jurisdiction over the persons of said defendants * * * *" (R. 356), the court intended thereby merely to "meet them at the borders of Texas" and restrain them from coming into Texas in concert with the local defendants in carrying out the illegal design which all of them were seeking to put into effect (R. 356).

That we failed to make these matters clear to the Circuit Court of Appeals is apparent from its comment upon them:

> "Without probing the soundness of this argument it is important to point out that it presupposes acts, or the threat of acts, on the part of the Texas defendants against which injunctive relief would be appropriate. The party defendant to the injunction proceeding must be a principal actor before an injunction may issue against him and others 'in active concert or participation' with him. The appellee here had no real controversy with the Texas defendants at the time the injunction was issued" (pp. 4 and 5, printed opinion, R.——).

In connection with the language just quoted, the opinion of the Circuit Court of Appeals contained a footnote referring to the case of OSBORN v. BANK OF UNITED STATES, 9 Wheat. 738. That case not only fails to support the Circuit Court of Appeals opinion here complained of—but *holds squarely to the contrary*.

The essential vice in the Circuit Court of Appeals opinion about which we complain arises from the fact that it adopts a *mere theory* of the case based entirely upon *contentions* in the brief and arguments of Counsel—rather than following the *stubborn facts* presented by the bill which were *undenied* and shown by *all the evidence*.

The trial court dealt with *undisputed facts and admissions* that shocked a court of equity into using its protective re-

straints to prevent wrong-doers from wanton encroachments upon the property rights of a patriotic, law-abiding citizen. The trial court acted only after defendants *admitted their utter lack of lawful* right to do the acts of which they were shown to be guilty and the more violent act (seizing the refinery) which they were actually threatening to do, and which in open court they stated *"might or might not" be done*—and the restraint imposed by the trial court was *merely preliminary*, pending a final hearing upon which even fuller facts could and would have been adduced. This brings us to the vital and important

QUESTION PRESENTED

Whether the District Court for the Northern District of Texas may issue a preliminary injunction to protect the property of a citizen of the State of Texas from unlawful seizure and irreparable injury by officials acting *without any semblance of lawful authority* and in furtherance of a conspiracy against the citizen, some of the conspirators being residents of and performing and threatening to further perform their unlawful acts in the Northern District of Texas, and some of the conspirators being nonresidents of the State of Texas and acting by, through and with the Texas conspirators.

REASONS FOR GRANTING THE WRIT

First Reason: The decision of the Circuit Court of Appeals holding that "the party defendant to the injunction proceeding must be a *principal actor* before an injunction may issue against him and others 'in active concert or participation' with him" is in conflict with the following decisions of the Supreme Court, the Circuit Court of Appeals for the Fifth Circuit, and other Circuit Courts of Appeals:

Supreme Court:

Osborn v. Bank of United States, 9 Wheat. 738;
Colorado v. Toll, 268 U.S. 228;
Philadelphia v. Stimson, 223 U.S. 605;
Goltra v. Weeks, 271 U.S. 536;
American School of Magnetic Healing v. McAnulty, 187 U.S. 94;

Circuit Court of Appeals for the Fifth Circuit:

Ryan v. Amazon Pet. Corp., 71 Fed. (2d) 1;
Yarnell v. Hillsborough Packing Co., 70 Fed. (2d) 435;

Other Circuit Courts of Appeals:

Eighth Circuit:
Noce v. Edward E. Morgan & Co., 106 Fed. (2d) 747;

Ninth Circuit:
Berdie v. Kurtz, 75 Fed. (2d) 898.

SECOND REASON: The decision of the Circuit Court of Appeals holding that a party defendant must be a *principal actor* before an injunction may issue against him and others "in active concert or participation" with him, is in conflict with Section 383, Title 28, U.S.C.A., and Rule 65 (d) of the RULES OF CIVIL PROCEDURE.

Each and all of the decisions and the statute and rule cited above support petitioner's position under Point I, which is:

Parties to a conspiracy who are within the jurisdiction of the court are subject to the injunctive restraints of a court of equity even though their principals and the chief source of the mischief are beyond the jurisdiction of the court.

THIRD REASON: The conflicts mentioned herein should be

eliminated and petitioner should be given the benefit of legal principles announced and customarily followed by this Court and Circuit Courts generally, as well as the benefit of the Statute and the Rule. Especially is the question presented of great public importance in protecting the rights of citizens against reckless encroachments by bureaus acting without semblance of legal right or authority.

FOURTH REASON. The decision of the Circuit Court of Appeals holding that petitioner "had no real controversy with the Texas defendants at the time the injunction was issued" is contrary to the following decision of the Supreme Court:

McCANDLESS v. FURLAUD, 296 U.S. 140.

The McCANDLESS case and many other cases support petitioner's assertion under Point II, which is:

The Circuit Court of Appeals erred in dissolving the preliminary injunction issued by the trial court against the Texas defendants since the undenied allegations in petitioner's bill and the uncontroverted evidence established that the Texas defendants were acting in concert with the Washington defendants in a conspiracy directed against petitioner.

FIFTH REASON: The decision of the Circuit Court of Appeals holding that the preliminary injunction order of the trial court was equivalent to a mandatory injunction to control official conduct is contrary to the following decisions of the Supreme Court, the Circuit Court of Appeals for the Fifth Circuit, and other Circuit Courts of Appeals:

Supreme Court:

Philadelphia v. Stimson, 223 U.S. 605;

Ex Parte Young, 209 U.S. 123;
Green v. Louisville & I. R. Co., 244 U.S. 499;

Circuit Court of Appeals for the Fifth Circuit:
Yarnell v. Hillsborough Packing Co., 70 Fed. (2d) 435;

Other Circuit Courts of Appeals:

Eighth Circuit:
Noce v. Edward E. Morgan Co., 106 Fed. (2d) 746;

Ninth Circuit:
Berdie v. Kurtz, 75 Fed. (2d) 898.

Each and all of the above decisions support petitioner's contention under Point III, which is:

The preliminary injunction order was not a mandatory injunction to control the official conduct of defendants, as was held by the Circuit Court of Appeals, and it merely restrained defendants from doing that which they admitted they had no authority to do, and which was inflicting irreparable injury on petitioner.

SIXTH REASON: The action of the Circuit Court of Appeals in considering the case *on its merits* and basing its opinion on facts that were not in existence at the time of the filing of petitioner's bill is contrary to the following decisions of the Supreme Court, the Circuit Court of Appeals for the Fifth Circuit, and other Circuit Courts of Appeals:

Supreme Court:

Alabama v. U. S., 279 U.S. 229;
Swift & Co. v. U. S., 276 U.S. 311;
Goshen Mfg. Co. v. Hubert A. Myers Mfg. Co., 242 U.S. 202;

Rogers v. Hill, 289 U.S. 582;
International Brotherhood of Teamsters v. U. S., 291 U.S. 293;

Circuit Court of Appeals for the Fifth Circuit:

Fleming v. Jacksonville Paper Co., 128 Fed. (2d) 395;
Douglas v. Pan-American Bus Lines, 81 Fed. (2d) 222;

Other Circuit Courts of Appeals:

Seventh Circuit:
Sears, Roebuck & Co. v. Federal Trade Commission, 258 Fed. 307.

Eighth Circuit:
Walling v. Reid, 139 Fed. (2d) 323.

Each and all of the above cases support petitioner's position under Point IV, which is:

The District Court properly determined Petitioner's right to a preliminary injunction on the basis of facts existing on the date its bill was filed and the Circuit Court of Appeals erred in dissolving the injunction on the basis of facts supposed to have arisen after the bill was filed and temporary restraint granted by the trial court.

Your Petitioner presents herewith a brief and citation of authorities.

Prayer

WHEREFORE, your Petitioner respectfully prays that a writ of certiorari be issued out of and under the seal of this Honorable Court, directed to the United States Circuit Court

of Appeals for the Fifth Circuit, commanding that court to certify and to send to this Honorable Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the record and all proceedings in the case numbered on its docket No. 11,157 and entitled "Eighth Regional War Labor Board, et al., Appellant, v. Humble Oil & Refining Company, Appellee;" and that said judgment of the United States Circuit Court of Appeals for the Fifth Circuit may be reversed by this Honorable Court, and the judgment of the District Court sustained; and that your Petitioner may have such other and further relief in the premises as to this Honorable Court may seem meet and just; and your petitioner will ever pray.

HUMBLE OIL & REFINING COMPANY,

By Rex G. Baker
President
Gen. Counsel & Director

REX G. BAKER,
NETH LEACHMAN,
J. Q. WEATHERLY,
JOHN H. CROOKER,
Counsel for Petitioner

THE STATE OF TEXAS)
(
COUNTY OF HARRIS)

REX G. BAKER, being first duly sworn, depo es and says that he is General Counsel and a Director of Humble Oil & Refining Company, Petitioner herein; that he has read the foregoing petition and knows the contents thereof, and that the allegations therein are true as he verily believes.

Rex G. Baker

SWORN TO AND SUBSCRIBED before me this the 22 day of May, A. D. 1945.

Pearl T. Hagen

Notary Public in and for Harris County, Texas

We hereby certify that we have read the foregoing Petition and in our opinion it is well founded and entitled to the favorable consideration of this Honorable Court.

Rex G. Baker

J. Q. Weatherly

Neth Leachman

John H. Crooker

REX G. BAKER,
JOHN Q. WEATHERLY,
c/o Humble Oil & Refining Co.,
Houston, Texas;
NETH LEACHMAN,
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JOHN H. CROOKER,
State National Bank Bldg.,
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